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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,147	12/07/2004	Koichi Kinoshita	TOS-159-USA-PCT	1181

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EXAMINER

OGDEN JR, NECHOLUS

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/517,147

Applicant(s)

KINOSHITA ET AL.

Examiner

Necholus Ogden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,10,11,13,14 and 19-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,10,11,13,14 and 19-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Claim Rejections - 35 USC § 102

1. Claims 1-19 rejected under 35 U.S.C. 102(b) as being anticipated by JP (1-178596) is withdrawn in view of applicant's amendment.
2. Claims 1-19 rejected under 35 U.S.C. 102(b) as being anticipated by JP (58-101197) is withdrawn in view of applicant's amendment.

Claims 1, 3-5, 7-12, 15-18 rejected under 35 U.S.C. 103(a) as being unpatentable over Miyahara et al (2001/0021691) is withdrawn in view of applicant's amendment.

Response to Arguments

3. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

JP '596 disclose a cleaning composition comprising alkyloyl alkyl taurates of formula I; polyethylene glycol; nonionic surfactants of formula II and polyoxyalkyl ether; additional surfactants; and citric acid or lactic acid. (abstract). Note, see example 5.

JP '596 teaches each of the claimed components except applicant's N-methyl taurine compound.

JP '743 discloses a shampoo composition comprising N-methyl taurines in an amount from 1-30% by weight (see abstract).

It would have been obvious to one of ordinary skill in the art to include the additional N-methyl taurine compound of JP '743 to the compositions of JP '596

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because the references are for use in personal cleansing compositions and taurines are well known in the art for their foaming properties. Therefore, one of ordinary skill would have been motivated to include the component because only an additive or beneficial results would have been obtained in the absence of unexpected results. Moreover, it is held that "It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980).

Claims 1-6, 8, 10-11, 13-14, 19-28 are rejected under 35 U.S.C. 103(a) as being obvious over JP (58-101197) in view of JP (2001233743).

JP '197 discloses detergent composition comprising taurine type surfactants of formula III; citric acid; polyethylene glycols; additional surfactants and polyoxyethylene alkyl ethers (abstract). Note, see example 6.

JP '743 discloses a shampoo composition comprising N-methyl taurines in an amount from 1-30% by weight (see abstract).

It would have been obvious to one of ordinary skill in the art to include the additional N-methyl taurine compound of JP '743 to the compositions of JP '197 because the references are for use in personal cleansing compositions and taurines are well known in the art for their foaming properties. Therefore, one of ordinary skill would have been motivated to include the component because only an additive or beneficial results would have been obtained in the absence of unexpected results. Moreover, it is

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held that "It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholas Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-T, Th-Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Necholus Ogden
Primary Examiner
Art Unit 1751

No
6-23-2006